IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 5269 of 2005

Between:

M/S. MAHALAKSHMI ENTERPRISES,
11-62-100, 2nd Floor, Canal Road,
VIJAYAWADA-1. Krishna District,
Rep. by its Proprietor, Mr. Velampalli Srinivas,
S/o. Velampalli Suryanarayana, aged 31 Years.

..... PETITIONER

AND

1 The Additional Commissioner of Commercial Taxes (Legal), O/o. The Commissioner of Commercial Taxes,
Excise & Commercial Taxes Building, M.G. Road,
Nampally, HYDERABAD.
2 The Deputy Commissioner of Commercial Taxes,
No. 1 Division, VIJAYAWADA, Krishna District.
3 The Commercial Tax Officer, M.J. Street,
VIJAYAWADA, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction particularly in the nature of Writ of Mandamus declaring the impugned proceedings of the first respondent in the CCT's Ref.No. LV(2)3352/2004 dated 24-02-2005 dismissing the stay petition filed by the Petitioner firm for assessment year 2000-2001 as illegal, arbitrary, improper, unjust and without application of mind as it amounts to collection of tax more than 12% and that too from two dealers in view of the revisions/proceedings issued by the revisional assessing authorities on the manufactures levying tax on the alleged rental values @ 12% in terms of Entry-21 of the 6th Schedule to the APGST Act and Consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeal petition on the file of the Sales Tax Appellate Tribunal and grant such other relief or reliefs as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: SPL GP FOR COMMERCIAL TAX

The Court at the admission stage made the following:

THE HON'BLE SRI JUSTICE G. BIKSHAPATHY

AND

THE HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.5269 of 2005

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the proceedings CCT's Ref.No.LV(2)/3352/2004, dated 24.02.2005, passed by the 1st respondent in dismissing the stay petition filed by the petitioner's firm, and to direct the 3rd respondent not to take coercive steps for recovery of the tax in dispute, pending disposal of the appeal.

2. The matter is still pending before the Sales Tax Appellate Tribunal. Under those circumstances, we dispose of the Writ Petition with a direction that the O.A. should be disposed of as expeditiously as possible.

3. Pending disposal of the appeal, there shall be interim stay of collection of disputed tax on condition the petitioner depositing a sum of Rs.7.50,000/- (Rupees Seven lakhs fifty thousand only) before the 3rd respondent within a period of four weeks from the date of receipt of a copy of this order duly giving credit to the amount if any already paid subsequent to the order, dated 31.08.2004, passed by the Deputy Commissioner of Commercial Taxes, Vijayawada. In failure to comply with the direction, the stay granted shall stand vacated without giving any notice.

4. Accordingly, the Writ Petition is disposed of. No costs.

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G. BIKSHAPATHY, J

P.S. NARAYANA, J

Date: 01.04.2005

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To

1 The Additional Commissioner of Commercial Taxes (Legal), O/o. The Commissioner of Commercial Taxes,
Excise & Commercial Taxes Building, M.G. Road,
Nampally, Hyderabad.
2 The Deputy Commissioner of Commercial Taxes,
No. 1 Division, Vijayawada, Krishna District.
3 The Commercial Tax Officer, M.J. Street,
Vijayawada, Krishna District.

4 2 CCs to the Spl. GP for Commercial Tax, High Court of A.P., Hyderabad (OUT)

5 2 CD copies

6 1 CC to MR.KUMAR